In the Supreme Court of the United States.

OCTOBER TERM, 1899.

GEORGE DEWEY, APPELLANT,
v.
THE UNITED STATES. } No. 546.

MOTION TO ADVANCE.

The Solicitor-General moves the court to advance this cause for argument, on a day during the present term convenient to the court if possible, for the following reasons:

This is the claim of Admiral Dewey for bounty due under section 4635, R. S., for the destruction of the enemy's vessels at the battle of Manila Bay, on May 1, 1898. The appeal is from the judgment of the Court of Claims rendered in favor of the claimant for a less sum than he claims. The point in dispute between the claimant and the Government is whether in determining the relative force of the United States and the enemy for the purpose of fixing the ratio of bounty under section 4635, the entire force of the enemy is to be taken into consideration, or only its force afloat.

The claimants contend that the entire force is to be considered, and that the bounty should be awarded at the

ratio of $200 per man upon the enemy's vessels destroyed, while the court below held to the view that the force afloat alone should be considered, and consequently allowed bounty at the rate of $100 per man on the enemy's vessels destroyed. The judgment of the court below in favor of Admiral Dewey is for $9,570, while the appellant's contention is that it should be for $19,140.

There are several reasons for the advancement of the cause.

1. The case is a test one of an important class. The amount admitted by the findings of the Court of Claims to be due to Admiral Dewey, his officers and men, is $191,400. The amount claimed by them is twice that sum. But it is not alone the litigation in the Court of Claims which will be affected by the decision in this case. A libel in prize is pending in the supreme court of the District of Columbia, and the same question of law arises in that case as in this, and is to be decided upon substantially the same ground. The decision in this case will affect the decision of the supreme court of the District of Columbia in that case. The number of individual claimants in the claims arising at Manila Bay is about 1,900. Other like cases at Santiago, Manzanillo, and elsewhere, which may be affected by the decision in this case, number about 2,300 more. The case, therefore, is a class case of importance.

2. But another still more important reason exists for an early hearing. The bounty granted by this statute is a reward for the personal services of the Admiral, his officers, and men. It is now nearly two years since the battle was fought, and neither bounty nor prize money

has yet been paid. The rules on which payment should be made, it is submitted, ought to be settled by the courts speedily, so that the beneficiaries may receive the pecuniary reward of their gallant services as soon as possible. Especially urgent is this in the case of the enlisted men who participated in this battle. The terms of enlistment of many of these men have now expired, and while some remain in the Navy, others are scattered to all parts of the world. No class of men are so likely to be lost sight of as sailors, and the longer payment of the amount due is delayed the greater is the danger that some of the men behind the guns will fail to receive what is due them. The propriety of prompt action on matters of this kind is declared by Sir William Scott in a case involving the right to head money, La Gloire (Edwards, 280), as follows:

> This suit has been long depending, although it is of a nature which, in a peculiar degree, requires to be brought to its determination with the greatest expedition.
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> Matter of this kind can not, consistently with the honor of the court, be permitted to be hung up for so many years together. The court must prescribe a limitation of time for such claims. If head money is to be considered as the reward of personal exertion, all questions arising out of it ought to be brought to an early determination, and not to be kept fluctuating in a state of uncertainty until many of the persons interested are consigned to their graves.

Opposing counsel concur in this motion.

JOHN K. RICHARDS,
Solicitor-General.

MARCH 1, 1900.

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